REMARKS

Claims 41 and 42 are added, claims 1 to 19 are canceled without prejudice and therefore claims 20 to 23, 25, 26, 29 to 36, and 38 to 42 are pending and being considered in the present application, since claims 24, 27, 28, and 37 were previously canceled.

It is respectfully submitted that all of the presently pending claims are allowable, and reconsideration of the present application is respectfully requested.

Claims 20, 21, 25, 26, 29 to 36, 38, and 40 were rejected under 35 U.S.C. § 103(a) as unpatentable over United States Patent No. 6,677,854 (the "Dix" reference) in view of United States Patent No. 6,295,492 (the "Lang" reference).

To reject a claim under 35 U.S.C. § 103(a), the Office bears the initial burden of presenting a *prima facie* case of obviousness. *In re Rijckaert*, 9 F.3d 1531, 1532, 28 U.S.P.Q.2d 1955, 1956 (Fed. Cir. 1993). To establish *prima facie* obviousness, three criteria must be satisfied. First, there must be some suggestion or motivation to modify or combine reference teachings. *In re Fine*, 837 F.2d 1071, 5 U.S.P.Q.2d 1596 (Fed. Cir. 1988). This teaching or suggestion to make the claimed combination must be found in the prior art and not based on the application disclosure. *In re Vaeck*, 947 F.2d 488, 20 U.S.P.Q.2d 1438 (Fed. Cir. 1991). Second, there must be a reasonable expectation of success. *In re Merck & Co., Inc.*, 800 F.2d 1091, 231 U.S.P.Q. 375 (Fed. Cir. 1986). Third, the prior art reference(s) must teach or suggest all of the claim features. *In re Royka*, 490 F.2d 981, 180 U.S.P.Q. 580 (C.C.P.A. 1974).

Claim 20 is directed to a system for monitoring at least one apparatus in a vehicle. Claim 20 provides for at least one sensor for communicating at least one error code to a gateway node situated in a vehicle via a vehicle bus and a processor to which the gateway node communicates the at least one error code using a wireless communication protocol. Claim 20 further provides that *the at least one sensor interrogates the at least one apparatus for the at least one error code in response to receipt of a request from the processor, the request being made by the processor in response to a user input.*

The Final Office Action reasserts all of the arguments of the Office Action of March 28, 2007. The Office Action of March 28, 2007 conclusorily asserts that "interrogating the at least one apparatus for the at least one error code upon request from a user would have been well known." Office Action of March 28, 2007, page 3. Applicants traverse any and all assertions that subject matter is old and well known in the art and respectfully request published information and/or an affidavit under 37 C.F.R. § 1.104(d)(2)

to support any and all assertions of well known fact. Further, as set forth in Applicants' Response dated June 27, 2007, even assuming for argument's sake that interrogating an apparatus for an error code upon a request from a user is well known, one skilled in the art would not have been motivated to modify the system of the "Dix" reference to include these features as provided for in the context of claim 20.

In particular, the "Dix" reference provides a system that provides diagnostic data locally to a vehicle operator and that also transmits the data wirelessly automatically when maintenance is required to a processor that, for example, can set a maintenance schedule for fleet owners. The system's purpose, as stated in the "Dix" reference, is to allow a fleet owner to more efficiently manage an entire fleet of vehicles by not requiring the fleet owner to check or even schedule maintenance for each vehicle on an individual basis. Thus, the "Dix" reference teaches away from providing the diagnostic data to a remote processor wirelessly in response to a request from the processor per a user input. (*See* the "Dix" reference, columns 1 and 2.)

The Office Action of March 28, 2007 further asserts that the "Dix" reference, at column 6, lines 35 to 38, discloses transmitting error information upon user request. As explained in Applicants' response dated June 27, 2007, the cited section only refers to an I/O controller 52 via which an operator may input requests, but does not indicate the nature of the requests or how they are processed. Further, at column 10, lines 48 to 54, the "Dix" reference indicates that the requests are for attempts to operate various subsystems of the vehicle, but does not disclose or suggest inputting of a request in response to which a sensor interrogates an apparatus for an error code.

In response to Applicants' arguments, the Final Office Action asserts, with respect to column 10, lines 48 to 52 of the "Dix reference, that "[i]t would have been readily apparent for one skilled in the art that such 'operational requests' made by the operator [referred to in the cited section of the "Dix" reference] obviously include the data sensed by the sensor such as 'engine temperature and coolant temperature' as disclosed on column 10, lines 7-11 of the Dix reference." Applicants respectfully traverse this assertion. In this regard, the cited section explicitly provides an example of the input requests as being those which are attempts to operate the vehicle subsystems, such as those for which the user might not be permitted to operate "discussed above." The prior discussion to which the cited section refers discusses limitations on the subsystems the user may operate and the times and location in which the user may operate the vehicle. *See* the "Dix" reference, column 4, line

63 to column 5, line 7. The operational requests are not requests for displaying the alarm or failure conditions referred to at column 10, lines 7 to 11 of the "Dix" reference. Indeed, there is no suggestion whatsoever that the operational requests are at all related to displaying status information.

Further, even assuming for argument's sake that the cited section discloses displaying status information in the display 82 in response to a user request (which it does not), the cited section still does not disclose or suggest a sensor that interrogates an apparatus for an error code in response to receipt of a request from a processor to which the sensor communicates the error code via wireless protocol arrangements, as provided for in the context of claim 20. In this regard, the Examiner refers to the cellular telephone 800 as assertedly disclosing the processor. The user operation attempts discussed at column 10, lines 48 to 52, on the other hand, refer to user input received via input devices of the vehicle and are unrelated to the cellular telephone 800.

Indeed, any review of the "Dix" reference makes plain that it does not disclose or suggest these features.

In view of all of the foregoing, it is respectfully submitted that the combination of the "Dix" and "Lang" references does not disclose or suggest all of the features of claim 20, so that claim 20 and its dependent claims 21, 25, 26, 29 to 32, and 40 are allowable.

Claim 33 is directed to a method for monitoring at least one apparatus in a vehicle and includes features like those of claim 20. Claim 33, and its dependent claims 34 to 36 and 38 are therefore allowable for the same reasons as claim 20.

Withdrawal of this obviousness rejections is therefore respectfully requested.

Claims 22, 23, and 39 were rejected under 35 U.S.C. § 103(a) as unpatentable over the "Dix" reference in view of the "Lang" reference and in further view of Horst Wunderlich et al., Opening Bluetooth for Technical Tasks – Possibilities and Challenges for Automotive Applications (the "Wunderlich" reference).

Claims 22 and 23 ultimately depend from claim 20 and are therefore allowable over the combination of the "Dix," "Lang," and "Wunderlich" references for the same reasons as claim 20, since the tertiary "Wunderlich" reference does not correct -- and is not asserted to correct -- the critical deficiencies noted above with respect to the combination of the "Dix and "Lang" references.

Claim 39 ultimately depends from claim 33 and is therefore allowable over the combination of the "Dix," "Lang," and "Wunderlich" references for the same reasons as claim 33, since the tertiary "Wunderlich" reference does not correct the critical deficiencies of the "Dix and "Lang" references.

Withdrawal of the obviousness rejections is therefore respectfully requested.

New claims 41 and 42 do not add any new matter and are supported in the specification. Claim 41 includes subject matter like that of claim 20 and is therefore allowable at least for the same reasons as claim 20.

Accordingly, all of pending claims 20 to 23, 25, 26, 29 to 36, and 38 to 42 are allowable.

Conclusion

In view of the foregoing, it is respectfully submitted that all of claims 20 to 23, 25, 26, 29 to 36, and 38 to 42 are allowable. It is therefore respectfully requested that the rejections be withdrawn. Prompt reconsideration and allowance of the present application are therefore respectfully requested.

Respectfully submitted,

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